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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,461

04/09/2007

Balachandra Chakkingal Sekhar

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04/30/2008

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EXAMINER

TAYLOR II, JAMES W

ART UNIT

PAPER NUMBER

4171

MAIL DATE

DELIVERY MODE

04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,461	Applicant(s) SEKHAR, BALACHANDRA CHAKKINGAL	
	Examiner James W. Taylor II	Art Unit 4171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/2/2006; 11/06/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract should be limited to a single paragraph. Correction is required. See MPEP § 608.01(b), "Guidelines for the Preparation of Patent Abstracts," C. Language and Format.

Claim Objections

Claims 6-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiply dependent claim. See MPEP § 608.01(n). Accordingly, the claims not been further treated on the merits.

Claim 4 is objected to because of a lack of antecedent basis. As there is no creaming agent in claim 1. Ergo when claim 4 modifies claim 1, there is no antecedent basis for using the term "the" in the phrase "the creaming agent".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman *et alli* (US 2,423,766) with additional evidence provided by Wescott (US 1,754,535).

In claim 1, the applicant claims:

- (i) clustering latex particles (Freeman *et alli*, col. 1, lines 3-8) and then
- (ii) centrifuging the latex (Freeman *et alli*, col. 5, lines 47-52).

Regarding claims 2 and 3, the applicant further claims the addition of:

- (iii) creaming agents (corresponding to “ammonium alginate,” Freeman *et alli*, col. 1, lines 5-6).

Further regarding claim 1, the examiner notes that it is well known in the art that agglomerating or coagulating of latex particles thermodynamically must happen, given enough time (in support: Wescott (US 1,754,535), p. 2, left column, lines 5-9). Hence, limitation (i) is would be inherently met in many systems—including Freeman *et alli*’s system—and virtually any system with centrifuging of latexes would anticipate claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman *et alli*, as applied above to claims 1-3.

Generally, differences in concentration or reaction time will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman *et alli*, as applied above to claims 1-3, further in view of Japan Synthetic Rubber (JP 63227875 A).

Freeman *et alli* fail to explicitly teach any soaps in their method.

However, it is established in the art that latex compositions generally already have surfactants (soaps) in them during and after synthesis to kinetically stabilize the latex particles. Japan Synthetic Rubber (Abstract) presents a composition wherein the latex composition has an ammonium oleate.

The latex composition presented in Japan Synthetic Rubber could be the latex being centrifuged in the Freeman *et alli*'s invention to help stabilize the emulsion..

Hence, it would have been obvious at the time of invention to one of ordinary skill in the art to add soaps to Freeman *et alli*'s invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Taylor II whose telephone number is (571)270-5457. The examiner can normally be reached on 7:30 am to 5:00 pm (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit 4171

James W Taylor II
Examiner
Art Unit 4171

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